

Chapter 82

OFFENSES AND MISCELLANEOUS PROVISIONS¹

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ARTICLE I. IN GENERAL

Secs. 82-1 – 82.2. Reserved.

(Code 1986, §§ 9.29.288--9.951.16; Code 1986, § 9.30; Ord. 2010-09)

Sec. 82-3. State statutes adopted.

Except as otherwise specifically provided in this Code, the statutory provisions in Wis. Stat. Sections 29.601(3), 134.66, 175.25, 254.76, 254.911, 254.916, 254.92, 287.81, 940.19, and Chs. 941-961, except Wis. Stat. Section 944.21, are hereby adopted and by reference made a part of this Code as if fully set forth in this section. Any act required to be performed or prohibited by any statute incorporated in this section by reference is required or prohibited under this Code. Any future amendments, revisions or modifications of the statutes incorporated in this section are intended to be made part of this Code.

(Ord. 2005-26, Ord. 2010-09, Ord. 2014-05)

Sec. 82-4. Penalties.

- (a) Wis. Stat. Section 66.0109 shall apply to any penalty imposed by any statute incorporated in this article. As such, the fine amounts set forth in the Wisconsin Statutes for violations of the offenses set forth in Section 82-3 above are adopted and incorporated herein. In addition to any penalty imposed for violation of Wis. Stats. § 943.01(1), any person who shall cause physical damage to or destroy any public property shall be liable for the costs of replacing or repairing such damaged or destroyed property. The parent of any unemancipated minor child who violates Wis. Stats. § 943.01(1) may also be held liable for the cost of repairing or replacing such damaged or destroyed property in accordance with Wis. Stats. § 895.035.
- (b) If subsection (a) is found not to apply, the penalty for commission of offenses prohibited by this article shall be as provided in Section 1-11 of the Code.
- (c) Nothing above shall prohibit the Court from making an appropriate order regarding restitution pursuant to law.

(Ord. 2010-09)

Secs. 82-5--82-30. Reserved.

ARTICLE II. OFFENSES AGAINST GOVERNMENTAL ADMINISTRATION²

Sec. 82-31. Resisting or interfering with city officer.

No person shall resist or in any way interfere with any officer of the city while such officer is doing any act in his official capacity and with lawful authority.

(Code 1986, § 9.12)

² **Cross references:** Administration, ch. 2.

Sec. 82-32 Harboring of Minor Runaways

- (a) **Definitions.** The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Runaway means an unemancipated person under the age of 18 years who has been reported as a runaway to any law enforcement agency and whose whereabouts is or was unknown to the parents, guardian or legal custodian.

- (b) **Harboring Runaways Prohibited.** It shall be unlawful for any person to knowingly harbor, allow, board or otherwise permit any runaway in his/her residence or business or other property under his/her control where such person known or should have known the minor to be a runaway from his/her parent, guardian or legal custodian.

- (c) **Assisting Runaways Prohibited.** It shall be unlawful for any person to knowingly assist; aid or abet a runaway to escape apprehension or flee from his/her parents, guardian, legal custodian or public officials. This includes but is not limited to the following acts:

1. Providing transportation to the runaway;
2. Providing money, clothing or any other useful instrument to the runaway that would aid the runaway in escape;
3. Obstructing by providing false or untrue information regarding the location or plan of the runaway;
4. Refusing to provide information to law enforcement officers when questioned about the runaway, which information was known to them at the time and would assist in the apprehension of the runaway; or
5. Assisting, aiding or abetting the runaway in any other way for the purpose of hindering law enforcement officers or the parents, guardian or legal custodian of the runaway from learning the whereabouts of the child.

Exception: Section (1) of subsection (3) does not apply to persons who harbor runaways by virtue of a placement by the juvenile court intake staff or any court.

- (d) **Penalty.** Any person violating any of the provisions of this Ordinance shall, upon conviction, be subject to the penalties set forth in Section 1-11 of the Municipal Code of the City of Evansville, Wisconsin.

(Ordinance 2009-03)

Sec. 82-33 Emergency Provisions.

From time to time the City may need to declare, or uphold declarations, directions and orders of Federal, State and County officials, in the interest of public safety, health and security.

(a) The City of Evansville, Wisconsin, hereby adopts section 252.25 of the Wisconsin statutes, and any future amendments thereto. As of the date of the adoption, that section of the state statute substantially states: Any person who willfully violates or obstructs the execution of any state statute or rule, county, city or village ordinance or departmental order under this chapter and relating to the public health, for which no other penalty is prescribed, shall be fined not more than \$500.

(b) The City of Evansville, Wisconsin, hereby adopts section 323.28 of the Wisconsin statutes, and any future amendments thereto. As of the date of the adoption, that section of the state statute substantially states: Whoever intentionally fails to comply with an order issued by an agent of the state or of a local unit of government who is engaged in emergency management activities, including training exercises, is subject to a forfeiture of not more than \$200.

(c) In addition to the provisions of subsections (a) and (b), it shall be a violation for any person to violate or obstruct the execution of any other state, county, or city order relating to the public health, safety, or emergency response.

Secs. 82-34--82-60. Reserved

(Ord. 2020-08)

ARTICLE III. OFFENSES AGAINST MORALS

DIVISION 1. GENERALLY

Secs. 82-61--82-80. Reserved.

DIVISION 2. CONTROLLED SUBSTANCES

Sec. 82-81. Marijuana and cannabis.

(a) *Purpose.* The people of the city specifically determine that the regulations contained in this section concerning marijuana and cannabis are necessary to serve the public interest by providing just and equitable legal treatment of the citizens of this community and to preserve the respect of such citizens for law, its process and its administration.

(b) *Definitions.* In this section, unless the context requires otherwise, the following terms shall have the following meanings:

Cannabis means the resin extracted from any part of the plant *Cannabis sativa* L., or any other nonfibrous extract from any part of the plant containing delta-9-tetrahydrocannabinol.

Casually possess means the possession of not more than 25 grams of a substance containing cannabis or marijuana.

Marijuana means all parts of the plant *Cannabis sativa* L., whether growing or not; the seeds thereof; and every compound, manufacture, sale, derivative, mixture or preparation of the plant or its seeds. It does not include cannabis or any other compound, manufacture, sale, derivative, mixture or preparation of the mature stalks, fiber, oil or cake or the sterilized seed of the plant which is incapable of germination.

Practitioner means:

- (1) A physician, dentist, veterinarian, podiatrist, scientific investigator or other person licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.
- (2) A pharmacy, hospital or other institution licensed, registered or otherwise permitted to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of professional practice or research in this state.

Public place means a place which is in public ownership or a place to which the public has access, distinguished from a private place.

(c) *Possession or production prohibited.* No person shall:

- (1) Casually possess marijuana or cannabis, unless such marijuana or cannabis was obtained directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his professional practice.
- (2) Knowingly possess or produce the *Cannabis sativa* L. plant.

(d) *Penalties.* A violation of subsection (c) of this section shall be subject to the following forfeiture as provided in section 1-11.

(Code 1986, § 9.20)

Section 82-82. Synthetic Cannabinoids.

(a) **Possession, Use and Sale.** It shall be illegal for any person to use, possess, purchase, attempt to purchase, sell, publically display for sale or attempt to sell, give, or barter any one or more of the following chemicals whether under the common street or trade names of “Spice”, “K2”, “Genie”, “Yucatan Fire”, “fake” or “new” marijuana, or by any other name, label, or description:

- (1) *Salviadinorum* or *salvinorum* A; all parts of the plant presently classified botanically as *salvia divinorum*, whether growing or not, the seeds thereof; any extract from any part of such plant, and every compound, salts derivative, mixture or preparation of such plant, its seeds or extracts;
- (2) (6aR, 10aR)-9-(hydroxymethyl)-6, 6dimethyl-3-(2methyloctan-2-yl)-6a, 7, 10 10a-tetrahydrobenzo[c] chromen-1-ol some trade or other names: HU-210;
- (3) 1-Pentyl-3-(1-naphthoyl) indole-some trade or other names: JWH-018\spice;
- (4) 1-Butyl-3-(1-naphthoyl) indole-some trade or other name: JWH-073;

- (5) 1-(3 {trifluoromethylphenyl}) piperazine-some trade or other name: TFMPP;
- (6) or any similar structure analogs.

(b) Medical or Dental Use. Acts otherwise prohibited under subsection (a) shall not be unlawful if done by or under the direction or prescription of a licensed physician, dentist, or other medical health professional authorized to direct or prescribe such acts, provided that such use is permitted under state and federal laws.

(c) Penalties. A violation of this section shall be subject to penalty as provided in Section 1-11 of the Municipal Code.

[Ord. 2010-10]

Secs. 82-83--82-110. Reserved.

ARTICLE IV. OFFENSES AGAINST PUBLIC PEACE AND SAFETY

DIVISION 1. GENERALLY

Sec. 82-111. Throwing or shooting arrows, stones or other missiles.

No person shall throw or shoot any object, arrow, stone, snowball or other missile or projectile, by hand or by any other means, at any person or at, in or into any building, street, sidewalk, alley, highway, park, playground or other public place within the city.

(Code 1986, § 9.03)

Sec. 82-112. Loitering for purpose of engaging in prostitution.

(a) *Prohibited.* No person shall loiter in or near any thoroughfare or place open to the public in a manner and under circumstances manifesting the purpose of inducing, enticing, soliciting or procuring another to commit an act of prostitution. Among the circumstances which may be considered in determining whether such purpose is manifested are that such person is a known prostitute or panderer, repeatedly beckons to, stops or attempts to stop, or engages male or female passersby in conversation, or repeatedly stops or attempts to stop motor vehicle operators by hailing, waving of arms or any other bodily gesture. The violator's conduct must be such as to demonstrate a specific intent to induce, entice, solicit or procure another to commit an act of prostitution. No arrest shall be made for a violation of this section unless the arresting officer first affords such persons an opportunity to explain such conduct, and no one shall be convicted of violating this section if it appears at trial that the explanation given was true and disclosed a lawful purpose.

(b) *Definitions.* As used in this section:

Known prostitute or panderer means a person who, within one year previous to the date of arrest for violation of this section, has within the knowledge of the arresting officer been

convicted in this state of an offense involving prostitution prohibited under Wis. Stats. §§ 994.30--944.34, or any local ordinance adopting those sections by reference.

Public place means an area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not) and buildings open to the general public, including those which serve food or drink, or provide entertainment, and the doorways and entrances to buildings of dwellings and the grounds enclosing them.

Secs. 82-113--82-140. Reserved.

DIVISION 2. FIREWORKS³

Sec. 82-141. Adoption of state law.

The provisions of Wis. Stats. § 167.10, regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, are adopted by reference and made a part of this section as though set forth in full.

(Code 1986, § 9.05)

Secs. 82-142--82-160. Reserved.

DIVISION 3. NOISE

Sec. 82-161. Generally.

No person shall make or cause to be made any loud, disturbing or unnecessary sounds or noises such as may tend to annoy or disturb a person of ordinary sensibilities in or about any public street, alley or park or any private residence.

(Code 1986, § 9.07(1))

Sec. 82-162. [Repealed]

(Code 1986, § 9.07(2), Ord. 2012-24)

Sec. 82-163. Use of compression brakes on motor vehicles.⁴

No person shall use motor vehicle brakes within the city limits which are in any way activated or operated by the compression of the engine of such motor vehicle or any unit or part thereof.

³ **Cross references:** Fire prevention and protection, ch. 50

⁴ **Cross references:** Traffic and vehicles, ch. 122.

There shall be an affirmative defense to prosecution under this section that the compression brakes were applied in an emergency situation requiring their use, there being no other way to stop.

(Code 1986, § 9.07(3))

Secs. 82-164--82-180. Reserved.

DIVISION 4. OPEN CISTERNS, WELLS, BASEMENTS OR OTHER DANGEROUS EXCAVATIONS

Sec. 82-181. Prohibited.

No person shall have or permit on any premises owned or occupied by him any open cisterns, cesspools, wells, unused basements, excavations or other dangerous openings. All such places shall be filled, securely covered or fastened in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the cover cannot be removed by small children.

(Code 1986, § 9.14(1))

Sec. 82-182. Order to fill building excavation.

Any excavation for building purposes, whether or not completed, which is left open for more than six months without proceeding with erection of the building thereon shall be deemed in violation of section 82-181, and the building inspector shall issue an order for erection of a building on the excavation forthwith or filling of the excavation to grade. The order shall be served upon the owner of the land or his agent and the holder of any encumbrance of record. If the owner of the land fails to comply with an order for filling of a building excavation within 15 days after service upon him, the building inspector shall cause the excavation to be filled to grade and report the cost thereof to the city clerk-treasurer to be charged against the real estate and the charge shall be a lien upon such real estate and assessed and collected as a special tax as provided in Wis. Stats. § 66.0413. Orders for filling of open excavations shall be subject to a petition to the circuit court within 30 days challenging the reasonableness thereof in accordance with the procedures in Wis. Stats. § 66.0413.

(Code 1986, § 9.14(2))

Secs. 82-183--82-200. Reserved.

DIVISION 5. ABANDONED OR UNATTENDED ICEBOXES AND SIMILAR CONTAINERS

Sec. 82-201. Removal of doors and locks.

No person shall leave or permit to remain outside of any dwelling, building or other structure, or within any unoccupied or abandoned building, dwelling or other structure under his control in a place accessible to children, any abandoned, unattended or discarded icebox, refrigerator or other container which has an airtight door or lid, snap lock or other locking device which may not be

released from the inside without first removing such door or lid, snap lock or other locking device from such icebox, refrigerator or container, unless such container is displayed for sale on the premises of the owner or his agent and is securely locked or fastened.

(Code 1986, § 9.15)

Secs. 82-202--82-220. Reserved.

DIVISION 6. CONSTRUCTION MATERIALS BLOWING FROM CONSTRUCTION SITES

Sec. 82-221. Prohibited.

An owner of property on which the construction of improvements is occurring is prohibited from allowing construction materials or construction-related trash to be blown off of said property by the wind onto any other property, whether publicly or privately owned, or any public right-of-way. This prohibition applies regardless of whether the property owner, agent of the owner, contractor, or employee of the contractor or any subcontractor, is performing the construction work and fails to prevent the construction materials or construction-related trash from being blown off of said property by the wind. This prohibition applies regardless of whether the property owner, agent of the owner, contractor, or any employee of the contractor or any subcontractor, is or is not present at the time the construction materials or construction-related trash are blown off of said property by the wind.

(Ord. 2005-3)

Sec. 82-222. Penalty.

A property owner who violates any provision of this division shall be subject to penalty as provided in section 1-11.

(Ord. 2005-3)

DIVISION 7. USE OF PRIVATE RECEPTACLE

Sec. 82-223. Prohibited Use.

It shall be unlawful for any person to place in or on any garbage can, dumpster or other trash receptacle any garbage, refuse, trash or waste material of any kind unless under one of the following scenarios;

1. such receptacle is designated expressly or implicitly for use by the general public, or
2. where the receptacle is privately owned and the owner or designee consents, or
3. where reasonable excuse or justification exists.

[Ord. 2010-04].

DIVISION 8. DISTURBANCE OF THE PEACE WITH A MOTOR VEHICLE

Sec 82-224. Definitions.

(a) “Disorderly conduct with a motor vehicle” shall mean the engaging in violent, abusive, unreasonably loud conduct, or disturbing or endangering the property or the safety of another’s person or property, or otherwise disorderly conduct, including but not limited to unnecessary, deliberate or intentional spinning of wheels, squealing of tires, revving of engine, blowing the horn, causing the engine to backfire or causing the vehicle, while commencing to move or in motion, to raise one or more wheels off the ground.

(b) “Motor vehicle” as used in this division means a vehicle, including a combination of two or more vehicles or an articulated vehicle, which is self-propelled, except a vehicle operated exclusively on a rail. “Motor vehicle” includes a snowmobile or an all-terrain vehicle.

[Ord. 2012-24]

Sec. 82-225. Unnecessary Noise Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any loud, disturbing, or unnecessary sounds or noises such as may tend to annoy or disturb another in or about any public or private area in the city.

[Ord. 2012-24]

Sec. 82-226. Unnecessary Smoke Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner which shall make or cause to be made any smoke, gases, or odors which are disagreeable, foul, or otherwise offensive which may tend to annoy or disturb another in or about any public or private area in the city.

[Ord. 2012-24]

Sec. 82-227. Unnecessary Acceleration and Display of Power Prohibited.

It shall be unlawful for any person to operate any motor vehicle or bicycle, in such a manner as to cause, by excessive and unnecessary acceleration, the tires of such vehicle or cycle to spin or emit loud noises or to unnecessarily throw stones or gravel; nor shall such driver cause to be made by excessive and unnecessary acceleration any loud noise as would disturb the peace.

[Ord. 2012-24]

Sec. 82-228. Disorderly Conduct with a Motor Vehicle Prohibited.

No person shall, within the city, by or through the use of any motor vehicle, cause or provoke disorderly conduct with a motor vehicle, cause a disturbance or annoy one or more persons, or disturb or endanger the property or safety of another’s person or property.

[Ord. 2012-24]

Sec. 82-229. Avoidance of Traffic Control Device Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and travel across private property to avoid an official control device, sign, or signal.

[Ord. 2012-24]

Sec. 82-230. Operation in Restricted Area Prohibited.

It shall be unlawful for any person to operate a motor vehicle in such a manner as to leave the roadway and park, stop, or travel upon or across any public or private property, parking lot, driveway, or business service area for any purpose except the official conduct of business located on said property without the consent of the owner or lessee of the property. The section shall specifically include but not be limited to:

- (a) Public park property;
- (b) Cemetery property;
- (c) School district property;
- (d) Medical facilities;
- (e) Funeral homes;
- (f) Service stations;
- (g) Grocery stores;
- (h) Restaurants;
- (i) Financial institutions; and
- (j) Other similar-type businesses with service driveways or drive-up or drive-through facilities.

[Ord. 2012-24]

ARTICLE V. MINORS⁵

DIVISION 1. GENERALLY

Secs. 82-231--82-250. Reserved.

DIVISION 2. CURFEW

Sec. 82-251. Penalties.

(a) Any parent, guardian or person having legal custody of a child described in section 82-252 who has been warned in the manner provided in section 82-255 and who thereafter violates any of the provisions of this division shall be subject to penalty as provided in section 1-11.

(b) Any child who violates this division after being detained and released under section 82-254 shall be dealt with under Wis. Stats. ch. 938.

(Code 1986, § 9.16(5))

⁵ **Cross references:** Transactions with minors by dealers, § 98-37.

Sec. 82-252. Curfew established; hours; exceptions.

(a) No child under the age of 18 years shall loiter, idle or remain upon any street, alley or other public place in the city between 11:00 p.m. and 6:00 a.m., unless such child is accompanied by his parent or guardian or other adult person having legal custody of such child.

(b) This section shall not apply to a child:

- (1) Performing an errand as directed by his parent or guardian or person having lawful custody.
- (2) Who is on his own premises or the areas immediately adjacent thereto.
- (3) Whose employment makes it necessary to be upon the streets, alleys, public places or any motor vehicle after such hour.
- (4) Returning home from a supervised school, church or civic function.
- (5) Traveling in interstate commerce.

(c) The exceptions in subsection (b) of this section, however, shall not permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets.

(Code 1986, § 9.16(1))

Sec. 82-253. Parental responsibility.

No parent, guardian or other person having legal custody of a child under the age of 18 years shall permit or suffer such child to loiter, idle or remain upon any street, alley or other public place in the city between 11:00 p.m. and 6:00 a.m., unless such child is accompanied by his parent, guardian or other adult person having legal custody of such child.

(Code 1986, § 9.16(2))

Sec. 82-254. Detention of minors by police.

A child believed to be violating the provisions of this division may be taken to the police department or the county sheriff's department for proper identification. Every law enforcement officer while on duty may detain any child violating section 82-252 until such time as the parent, guardian or person having legal custody of the child shall be immediately notified, and the person so notified shall as soon as reasonably possible thereafter report to the police station or sheriff's office for the purpose of taking the child into custody and shall sign a release for him.

(Code 1986, § 9.16(3))

Sec. 82-255. Warning to parents on first violation.

The first time a child is detained by law enforcement officers as provided in section 82-254, a parent, guardian or person having legal custody shall be advised as to the provisions of this division, and any violation of this division occurring thereafter by this child or any other child under such person's custody shall result in a penalty being imposed as provided in this division.

(Code 1986, § 9.16(4))

Secs. 82-256--82-270. Reserved.

DIVISION 3. SCHOOL TRUANCY

Sec. 82-271. Statutory authority.

This division is enacted by authority of Wis. Stats. § 118.163(1m), (2) and (2m).

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(1)), 12-8-1998)

Sec. 82-272. Definitions.⁶

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dropout means a child who ceased to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse under Wis. Stats. § 118.15(1)(b)--(d) or (3).

Habitual truant means a pupil who is absent from school without an acceptable excuse as defined in Wis. Stats. § 118.15 and Wis. Stats. § 118.16(4) for a part or all of five or more days on which school is held during a school semester.

Operating privilege has the meaning given in Wis. Stats. § 340.01(40).

Truant means a pupil who is absent from school without an acceptable excuse under Wis. Stats. § 118.15 and Wis. Stats. § 118.16(4) for a part or all of any day on which school is held during a school semester.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(2)), 12-8-1998)

Sec. 82-273. Truants.

(a) *Prohibition.* Any person attending school in the city under the age of 18 years, subject to the exceptions found under Wis. Stats. § 118.15, is prohibited from being a truant.

(b) *Dispositions available to municipal court.* The municipal court shall be entitled to enforce the following dispositions for a person adjudged a truant:

- (1) An order for the person to attend school.
- (2) A forfeiture of not more than \$50.00 plus costs for a first violation, or a forfeiture of not more than \$100.00 plus costs for any second or subsequent violation committed within 12 months of a previous violation, subject to Wis. Stats. § 938.37 and subject to a maximum cumulative forfeiture amount of not more than \$500.00 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

⁶ **Cross references:** Definitions generally, § 1-2.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(3), (4)), 12-8-1998)

Sec. 82-274. Habitual truants.

(a) *Prohibition.* Any person attending school in the city under the age 18 years, subject to the exception found under Wis. Stats. § 118.15, is prohibited from being a habitual truant.

(b) *Dispositions available to municipal court.* The municipal court shall have available the following dispositions for a habitual truant:

- (1) Suspension of the person's operating privilege for not less than 30 days and not more than one year. The court shall immediately take possession of any suspended license and forward it to the state department of transportation, together with a notice stating the reason for and the duration of the suspension.
- (2) An order for the person to participate in counseling or a supervised work program or other community service work as described in Wis. Stats. § 938.34(5g). The costs of any such counseling, supervised work program or other community service work may be assessed against the person, the parents or guardian of the person, or both.
- (3) An order for the child to remain at home except during hours in which the child is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his home if the person is accompanied by a parent or guardian.
- (4) An order for the person to attend an educational program as described in Wis. Stats. § 938.34(7d).
- (5) An order for the state department of workforce development to revoke, under Wis. Stats. § 103.72, a permit under Wis. Stats. § 103.70 authorizing the employment of the person.
- (6) An order for the person to be placed in a teen court program as described in Wis. Stats. § 938.342(1g)(f).
- (7) An order for the person to attend school.
- (8) A forfeiture of not more than \$500.00 plus costs, subject to Wis. Stats. § 938.37. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.
- (9) Any other reasonable conditions consistent with this division, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.
- (10) An order for the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian's, or legal custodian's own expense or to attend school with the person, or both.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(5), (6)), 12-8-1998)

Sec. 82-275. Dropouts.

(a) *Prohibition.* Any person within the city under the age of 18 years, subject to the exceptions found under Wis. Stats. § 118.15, is prohibited from being a dropout.

(b) *Dispositions available to municipal court.* The municipal court shall have available the following dispositions for a dropout:

- (1) All the dispositions contained in section 82-274(b).
- (2) For persons at least 16 years of age, but less than 18 years of age, suspension of operating privilege for any duration up until the person reaches the age of 18 years. The court shall immediately take possession of any suspended license and forward it to the state department of transportation, together with a notice stating the reason for and the duration of the suspension.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(7), (8)), 12-8-1998)

Sec. 82-276. Form of citation.

The city police department is authorized to issue a municipal citation to any person who is determined to be a truant, habitual truant or dropout under the terms of this division. Any citation issued shall be returnable to the municipal court, or any joint municipal court of which the city is a participant, in the same manner as all other ordinance citations. The citation is to state on its face that it is a "Must Appear" citation without a forfeiture amount written on the face of the citation.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(9)), 12-8-1998)

Sec. 82-277. Required actions by school system.

(a) *Preconditions to issuance of citation.* Prior to the issuance of a city municipal citation for habitual truancy, the Evansville School District attendance officer shall provide evidence that appropriate school personnel in the school or school district in which the child is enrolled have, within the school year during which the truancy occurred, done all of the following:

- 1) Met with the child's parent or guardian to discuss the child's truancy or attempted to meet with the child's parent or guardian and received no response or were refused.
- 2) Provided an opportunity for educational counseling to the child to determine whether a change in the child's curriculum would resolve the child's truancy and have considered curriculum modifications under Wis. Stats. § 118.15(1)(d).
- 3) Evaluated the child to determine whether learning problems may be a cause of the child's truancy and, if so, have taken steps to overcome the learning problems, except that the child need not be evaluated if tests administered to the child within the previous year indicate that the child is performing at his/her grade level.
- 4) Conducted an evaluation to determine whether social problems may be a cause of the child's truancy and, if so, have taken appropriate action or made appropriate referrals.

(b) *Proof of completion of actions.* Before a person may be found guilty of violating this section, the school district attendance officer must present evidence to the municipal court that the activities under Wis. Stats. § 118.16(5) have been completed by the school system.

(c) *Violation of procedures by school.* Any school district administrator, principal, teacher or school attendance officer who violates this section shall forfeit not less than five dollars (\$5.00) nor more than twenty-five dollars (\$25.00).

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(10), (11)), 12-8-1998, Ord. 2007-2, Ord. 2008-09, Ord. 2008-20)

Sec. 82-278. Contributing to or causing violation.

(a) *Prohibition.* No person of the age of 18 or older shall commit an act of commission or omission that contributes to, or where the natural and probable consequences of that act would cause a child to be a truant, habitual truant, or dropout, whether or not the child is adjudged guilty of a violation.

(b) *Penalty.* Any person of the age of 18 or older who contributes to or causes a child to be a truant, habitual truant, or dropout shall pay a forfeiture of not less than \$100.00 and not more than \$500.00, together with the costs of the prosecution for each offense, and upon default of the payment of these forfeitures and costs shall be imprisoned until the forfeiture and costs together with subsequent costs are paid, but not more than 60 days. Each day a violation continues shall constitute a separate offense. The standard forfeiture shall be in the sum of \$100.00 plus costs.

(Code 1986, § 9.22; Ord. No. 1998-23, § 1(9.22(12), (13)), 12-8-1998)

Secs. 82-279--82-300. Reserved.

DIVISION 4. [Repealed by Ord. 2014-05]

Secs. 82-301--82-320. Reserved.

DIVISION 5. POSSESSION OF DRUG PARAPHERNALIA

Sec. 82-321. Penalty.

A person who violates this division is subject to a forfeiture of not less than \$10.00 and not more than \$500.00, together with the costs of the prosecution.

(Code 1986, § 9.25(3))

Sec. 82-322. Adoption of state law.

The provisions of Wis. Stats. §§ 961.571 and 961.572 are hereby adopted by reference in their entirety, including any amendments thereto as may be adopted from time to time.

(Code 1986, § 9.25(2))

Sec. 82-323. Use or possession prohibited.

No person under the age of 17 years shall use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of Wis. Stats. ch. 161.

(Code 1986, § 9.25(1))

DIVISION 6: SALE AND USE OF VAPING PRODUCTS

Sec. 82-324. Public Health.

In the interest of public health, the City of Evansville finds that the use of vapor products by minors poses a health risk to any person under the age of eighteen years.

(Ord. 2018-05)

Sec. 82-325. Definition of Vapor Products.

“Vapor products” shall mean noncombustible products, that may or may not contain nicotine, that employ a mechanical heating element, battery, electronic circuit, or other mechanism, regardless of shape or size, that can be used to produce a vapor in a solution or other form including but not limited to an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor products” shall include any vapor cartridge, solution, or other container, that may or may not contain nicotine, that is intended to be used with an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. “Vapor products” do not include any products regulated by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.

(Ord. 2018-05)

Sec. 82-326. Prohibition of the Possession and Sale to Minors

The purchase or possession of vapor products by any person under the age of 18 is prohibited. No retailer, direct marketer, manufacturer, distributor, jobber or sub-jobber, no agent, employee or independent contractor of a retailer, direct marketer, manufacturer, distributor, jobber or sub-jobber and no agent or employee of an independent contractor may sell or provide for nominal or no consideration any vapor products to any person under the age of 18. A person under 18 years of age may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer. The defenses provided in Wis. Stat. § 134.66(3)(a)—(c) shall be defenses to any prosecution hereunder

(Ord. 2018-05)

Secs. 82-327--82-350. Reserved.

ARTICLE VI. WEAPONS

DIVISION 1. GENERALLY

Sec. 82-351. Discharge restricted.

- (a) *Prohibited acts.* No person shall discharge:
- (1) Any firearm within the city; or
 - (2) Within the limits of the city, any BB gun, pellet gun, airgun or gas-operated gun, or make use of a bow and arrow, crossbow or slingshot or other dangerous weapon.
- (b) *Exceptions.* This section shall not apply to:
- (1) Organized gun, archery or sporting clubs or ranges under written permit granted by the city council.
 - (2) The use of blank cartridges by individuals and organizations approved by the chief of police.
 - (3) The use of flares or torpedoes for signal purposes.
 - (4) The use of firearms for rodent control.
 - (5) Any use excepted under Wis. Stats. § 167.31(4)(a)-(am).
 - (6) Conduct which is justified or, had it been subject to a criminal penalty, would have been subject to a defense described in Wis. Stats. § 939.45.
 - (7) Deer management program approved by the city council and conducted under the supervision of the chief of police.
 - (8) Use of a bow and arrow or crossbow for hunting, provided that the use is not within one-hundred (100) yards of a building (permanent structure) used for human occupancy (including a manufactured home under Wisconsin Statute section 101.91(2)) located on another person's land and provided the discharge of the arrow or bolt shall be toward the ground. The distance restriction does not apply if the person who owns the land on which the building is located allows the hunter to hunt within one-hundred (100) yards.
- (c) *Penalty.* Any person who shall violate any provision of this section shall be subject to a penalty in accordance with section 1-11.

(Code 1986, § 9.02(2), Ord. 2012-06, Ord. 2014-03)

Sec. 82-352. [Repealed]

(Code 1986, § 9.23, Ord. 2004-14, Ord. 2012-06)

Sec. 82-353. Weapons in State or Local Government Buildings.

- (a) Pursuant to Wis. Stats. § 943.13(1m)(c)4., no person shall enter or remain in any part of a building owned, occupied or controlled by the State or local governmental unit if the State or local governmental unit has notified the person not to enter or remain in the building while carrying or with a firearm or other weapon.
- (b) The City Administrator shall post a sign in a prominent place near all of the entrances of all buildings, or parts of buildings, owned, occupied or under the Control of the City of

Evansville and any individual entering the building can be reasonably expected to see the sign providing notice that no person is to enter or remain in any such building while carrying or with a firearm or other weapon. Such signs shall be five inches by seven inches or larger.

- (c) Nothing in this subsection shall be construed to apply to prohibit a peace officer or armed forces or military personnel armed in the line of duty or any person duly authorized by the Chief of Police to possess a firearm in any public building. Notwithstanding Wis. Stats. § 939.22(22), for purposes of this paragraph, peace officer does not include a commission warden who is not a State certified commission warden.
- (d) Nothing in this section shall be construed to authorize the carrying of any firearm or dangerous weapon contrary to Wis. Stats. §§ 941.23 or 941.235.
- (e) The penalty for commission of offenses prohibited by this section shall be as provided in Section 1-11 of the Code.

[Ord. 2011-13]

Secs. 82-354--82-370. Reserved.

DIVISION 2. FIREARMS

Sec. 82-371. Definitions.⁷

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Firearm means an instrument used in the propulsion of shot, shell or bullets by the action of gunpowder exploded within it, or any weapon which acts by force of gunpowder.

(Code 1986, § 9.02(1))

Sec. 82-372. [Repealed]

(Code 1986, § 9.02(3), Ord. 2012-06)

Sec. 82-373. Penalty.

Any person who shall violate any provision of this division shall be subject to a penalty as provided in section 1-11.

(Code 1986, Ord. 2012-06)

⁷ **Cross references:** Definitions generally, § 1-2.